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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,498

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Michael Peter Etgen

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8713

7590

11/22/2004

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EXAMINER

WEST, JEFFREY R

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/871,498

Applicant(s)

ETGEN, MICHAEL PETER

Examiner

Jeffrey R. West

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-16,18-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-16,18-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8, 11, 13, 23, 26, 28, 36, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,931,912 to Wu et al. in view of U.S. Patent No. 6,112,238 to Boyd et al.

Wu discloses a method in a data processing system for analyzing a log, the method comprising analyzing a set of time segments in the log to determine whether a tolerance of a time gap, considered with respect to an adjacent segment (column 7, lines 36-39), has been exceeded for a time segment within the set of time segments (column 9, lines 57-65) and responsive to a determination that the time gap tolerance has been exceeded for the time segment within the set of time segments, generating an alert in the form of a flag used by a program to process the log (column 9, line 65 to column 10, line 9).

Wu discloses that the log includes a web log containing request data (column 5, lines 25-30) and that the method is implemented as a computer program product of corresponding instructions (column 5, lines 40-44).

As noted above, the invention of Wu teaches many of the features of the claimed invention and while Wu does disclose analyzing a set of time segments to determine whether a time gap tolerance has been exceeded for a time segment, Wu does not explicitly state that the set of time segments include at least one time segment defined by a user.

Boyd teaches a system and method for analyzing remote traffic data in a distributed computing environment including means for recording a data log of hits (column 2, lines 35-45) with the log segmented into a set of time segments for analysis (column 2, lines 45-51) wherein the set of time segments includes at least one time segment defined by a user (column 9, lines 15-23).

It would have been obvious to one having ordinary skill in the art to modify the invention of Wu to include explicitly stating that the set of time segments include at least one time segment defined by a user, as taught by Boyd, because, as suggested by Boyd, the combination would have allowed the user to select a particular time interval of interest (column 9, lines 50-51) thereby increasing the efficiency of the analysis by only analyzing that which is of interest to the user as well as provided smaller time intervals of analysis to allow greater flexibility and speed in reporting the results (column 9, lines 23-27).

3. Claims 1, 3, 5-9, 11-16, 18, 20-24, 26-29, 31, 33-37, and 39-41 are rejected

under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,892,917 to Myerson in view of Wu and further in view of U.S. Patent No. 6,112,238 to Boyd.

Myerson discloses a method in a data processing system for maintaining data integrity in logs, the method comprising reviewing a log, such as a web-log including request data (column 1, lines 49-52 and column 5, lines 23-54), determining whether the log contains a data loss (column 3, lines 13-17), and adding data from a prior log to replace the data loss in the log (column 3, lines 17-20) to increase the integrity of the log if a determination is made that a data loss has occurred (column 2, lines 27-42), wherein the data is added to a particular time segment of the log (column 3, lines 13-20).

Myerson discloses that the log includes a sequence/set of time segments (column 2, lines 60-62) calculating a data integrity level for the log and comparing the integrity level to a threshold in order to determine if an acceptable level of integrity has been reached (column 8, lines 47-58).

Myerson also discloses that the method is implemented as a computer program product of corresponding instructions (column 4, line 40), in a system comprising a memory containing the instructions (column 4, lines 18-19), a processing unit for executing the instructions (column 4, lines 16-17), a communications unit (column 4, line 19), and a user interface (column 4, line 19), all connected to a bus (Figure 1).

As noted above, the invention of Myerson teaches many features of the claimed invention, and while Myerson does teach analyzing frequency (i.e. time) differences in the current web-log to determine if data should be appended (column 8, line 66 to

column 9, line 7), Myerson does not specifically disclose flagging the determination of an excessive time gap for log analysis.

Wu teaches a method in a data processing system for analyzing a log, the method comprising analyzing a set of time segments in the log to determine whether a tolerance of a time gap, considered with respect to an adjacent segment (column 7, lines 36-39), has been exceeded for a time segment within the set of time segments (column 9, lines 57-65) and responsive to a determination that the time gap tolerance has been exceeded for the time segment within the set of time segments, generating an alert in the form of a flag used by a program to process the log (column 9, line 65 to column 10, line 9).

Wu teaches that the log includes a web log containing request data (column 5, lines 25-30) and that the method is implemented as a computer program product of corresponding instructions (column 5, lines 40-44).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson to include specifically flagging the determination of an excessive time gap for log analysis, as taught by Wu, because Myerson teaches a web-log method for use with hypertext systems (Myerson; column 1, lines 31-34) and Wu teaches a method similar to Myerson for determining when web-log data is missing and performing a corresponding appending routine (Wu; column 7, lines 42-49) due to caching of data (Wu; column 3, lines 45-52) in a hypertext system (Wu; column 2, lines 54-57) and suggests that the combination would have provided a corresponding method for adding data by selecting a proper active session and valid

traversal path to append the current log entry using time-gap data (Wu; abstract and column 7, lines 50-52) thereby increasing the reliability of the resulting log data.

As noted above, the invention of Myerson and Wu teaches many of the features of the claimed invention and while the invention of Myerson and Wu does disclose analyzing a set of time segments to determine whether a time gap tolerance has been exceeded for a time segment, the combination does not explicitly state that the set of time segments include at least one time segment defined by a user.

Boyd teaches a system and method for analyzing remote traffic data in a distributed computing environment including means for recording a data log of hits (column 2, lines 35-45) with the log segmented into a set of time segments for analysis (column 2, lines 45-51) wherein the set of time segments includes at least one time segment defined by a user (column 9, lines 15-23).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson and Wu to include explicitly stating that the set of time segments include at least one time segment defined by a user, as taught by Boyd, because, as suggested by Boyd, the combination would have allowed the user to select a particular time interval of interest (column 9, lines 50-51) thereby increasing the efficiency of the analysis by only analyzing that which is of interest to the user as well as provided smaller time intervals of analysis to allow greater flexibility and speed in reporting the results (column 9, lines 23-27).

4. Claims 4, 10, 19, 25, 32, and 38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Myerson in view of Wu and Boyd and further in view of U.S.

Patent No. 5,778,387 to Wilkerson et al.

As noted above, Myerson in combination with Wu and Boyd teaches many features of the claimed invention, and while the combination does teach generating an alert in the form of a flag (Wu; column 9, line 65 to column 10, line 9) and including multiple logs for data storage (Wu; column 4, lines 10-15), the combination does not specifically include presenting the alert to a user through an interface or specify that the appended data be derived from a set of prior logs.

Wilkerson teaches a database automated recovery system for recovering data for a log (column 7, lines 17-24) including a set of logs (column 7, lines 39-50) wherein a user interface alerts a user when data recovery is needed and allows the user to select from a set of logs to derive the data to be recovered (column 9, line 30 to column 10, line 18).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson, Wu, and Boyd to include specifically presenting the alert to a user through an interface and specifying that the appended data be derived from a set of prior logs, as taught by Wilkerson, because, as suggested by Wilkerson, the combination would have given the user more control over the recovery process in order to insure that the desired data is recovered from whatever previous data set is most accurate to insure the reliability of the recovered data in a simplified manner (column 2, lines 31-45, column 9, line 30 to column 10, line 18, and column 10, lines 28-50).



***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-16, 18-29, and 31-41 have been considered but are moot in view of the new ground(s) of rejection.

The following arguments, however, are noted.

Applicant first argues that "Although *Myerson* teaches a log file (col. 2, lines 60-62), *Myerson* does not teach a set of time segments in the log file which include at least one time segment defined by a user."

The Examiner asserts that this argument is considered to be moot in view of the newly cited art.

Applicant also argues that "*Myerson* fails to teach the feature of analyzing each time segment within the set of time segments to determine whether a time segment gap tolerance has been exceeded, as recited in claim 1 of the present invention."

The Examiner asserts that the invention of *Myerson* is not included to teach this feature as this feature is taught by the invention of *Wu*.

Applicant then argues that "*Wu* teaches calculating a time gap, wherein the time gap is the difference between the time stamp of the current log entry and the time stamp of the access pair at the tail end of the session. Thus, *Wu* teaches analyzing a difference between two timestamps for log entries, rather than analyzing a time segment defined by a user."

The Examiner asserts that this argument is considered to be moot in view of the newly cited art.

Applicant then argues that "one of ordinary skill in the art would not combine *Wu* with *Myerson* when each reference is considered as a whole" because "*Myerson* is directed towards the problem of supplementing log files with cached data, and *Wu* is directed towards identifying user sessions to analyze usage statistics."

The Examiner maintains that both *Myerson* and *Wu* are concerned with the same problem since *Myerson* teaches a web-log method for supplementing lost data in hypertext systems ("*Myerson*; column 1, lines 31-34) and *Wu* teaches a method similar to *Myerson* for determining when web-log data is missing and performing a corresponding appending routine (*Wu*; column 7, lines 42-49) due to caching of data (*Wu*; column 3, lines 45-52) in a hypertext system (*Wu*; column 2, lines 54-57).

Applicant also argues that "there is no teaching or suggestion in the references as to the desirability of including the features from the other references. As the Examiner has failed to demonstrate any motivation or incentive in the prior art to combine and modify the references so as to achieve the claimed invention, the alleged combination can only be the result of impermissible hindsight reconstruction using Applicant's own disclosure as a guide. While Applicant understands that all examination entails some measure of hindsight, when the rejection is based completely on hindsight, as in the present case, to the exclusion of what can be

gleaned from the references, then the rejection is improper and should be withdrawn."

The Examiner maintains that the motivation to combine the references of Myerson and Wu is proper since, as noted above, the inventions of Myerson and Wu solve similar problems and further since Wu suggests that the combination would have provided a corresponding method for adding data by selecting a proper active session and valid traversal path to append the current log entry using time-gap data (Wu; abstract and column 7, lines 50-52) thereby increasing the reliability of the resulting log data.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,178,427 to Parker teaches a method of mirroring log datasets using both log file data and live log data including gaps between the two data logs.

U.S. Patent No. 6,073,128 to Pongracz et al. teaches a method and apparatus for identifying files used to restore a file.

U.S. Patent No. 4,758,956 to Duffy teaches a system for replacing defective portions of log data.

U.S. Patent Application Publication No. 2001/0056438 to Ito teaches a database system with backup and recovery mechanisms.

U.S. Patent Application Publication No. 2002/0062223 to Waugh teaches a system and method for adding network traffic data to a database of network traffic data.

U.S. Patent Application Publication No. 2002/0107837 to Osborne et al. teaches a method and apparatus for logically reconstructing incomplete records in a database using a transaction log.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the

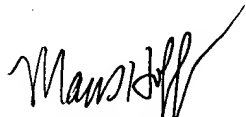
Art Unit: 2857

examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jr  
November 15, 2004

  
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